

### REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-14 were pending in this application. Claims 1, 3, 5, 8, 10, 11, 12, and 14 have been amended. Accordingly, claims 1-14 will remain pending herein upon entry of this Amendment, of which claims 1, 5, 10, and 12 are independent claims. The amendments to the claims have support throughout the specification and no new matter is introduced. For the reasons stated below, Applicants respectfully submit that all claims pending in this application are in condition for allowance.

In the Office Action, claim 1 was objected to and claims 1, 2, 5-7, 10, 12, and 13 were rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,584,161 to Hottinen et al. ("Hottinen"). Claims 3, 4, 8, 9, 11, and 14 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. To the extent these grounds of rejection and objection might still be applied to claims presently pending in this application, they are respectfully traversed.

Amended independent claims 1, 5, 10, and 12 have been amended to incorporate patentable features of claims 3, 8, 11, and 14, respectively. As amended, the method recited in claim 1 includes sending a command of disabling a closed loop transmit diversity mode to the base station when it is determined that the closed loop transmit diversity mode is to be disabled. Similar features are also incorporated in to amended claims 5, 10, and 12.

As described in the specification, the present invention provides a method and an apparatus to solve a low-efficiency problem caused by a closed loop transmit diversity in high moving speed environment. The present invention provides a method for determining the data transmit diversity mode by comparing the feedback phases of two feedback signals received in different time slots.

In addition to determining the diversity mode by the phase difference between the feedback signals, the present invention also provides a method and an apparatus to determine the diversity mode by observing the feedback error rate. The data transmit diversity mode is determined by comparing a tune weight and a feedback weight of a signal.

Hottinen teaches or suggests a different method and apparatus from those recited in amended claims 1, 5, 10, and 12. Hottinen intends to improve the resolution of feedback signaling without increasing the feedback signaling capacity. To do so, Hottinen implements 8-phase signaling by means of two feedback bits rather than three feedback bits as conventional. As shown in Fig. 4 of Hottinen, the feedback signals are divided into two groups based on the time of receiving the feedback signals, with a 45° phase difference between these two groups. In such manner, the 8-phase signaling resolution can be achieved by using two feedback bits.

As the concept of Hottinen is different from the invention, Hottinen fails to teach or suggest sending a command of disabling a closed loop transmit diversity mode to the base station when it is determined that the closed loop transmit diversity mode is to be disabled, as recited in amended claims 1 and 5 and a sending unit for sending a command

of disabling a closed loop transmit diversity mode to said base station, as recited in amended claims 10 and 12.

Accordingly, it is respectfully submitted that amended claims 1, 5, 10, and 12 are not anticipated by Hottinen and should be patentable. Furthermore, it is respectfully submitted that their dependent claims 2-4, 6-9, 11, and 13-14 should also be patentable at least due to their dependencies from patentable independent claims.

In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.


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Respectfully submitted,

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